

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

EXELIS, INC.,

Plaintiff,

v.

Civil Action No.
5:12-cv-0858 GTS/TWD

SRC, INC.; JOHN F. LoSECCO; ANDREA M.
BELMONT-GWILT; JAMES M.
MARCINKOWSKI; ROBERT A. MARCEAU;
MARK W.WEBB; ANTHONY G. CASALE;
and MICHAEL J. SEAKAN,
Defendants.

APPEARANCES:

WOLFORD LAW FIRM, LLP
Counsel for Plaintiff

BOND SCHOENECK & KING, PLLC
Counsel for Defendants

OF COUNSEL:

ELIZABETH ANN WOLFORD, ESQ.
JAMES A. HOBBS, ESQ.
SARAH SNYDER MERKEL, ESQ.

EDWARD R. CONAN, ESQ.
LOUIS ORBACH, ESQ.
KATE I. REID, ESQ.

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

Currently before the Court, in this breach-of-contract action filed by Exelis, Inc. (“Plaintiff”) against the above captioned entity and individuals (“Defendants”), is Plaintiff’s Motion for an Order to Show Cause, a Temporary Restraining Order, and a Preliminary Injunction. (Dkt. No. 39.) For the reasons set forth below, the Court denies Plaintiff’s motion for an Order to Show Cause and a Temporary Restraining Order, and reserves decision on Plaintiff’s motion for a Preliminary Injunction pending completion of an expedited briefing and hearing schedule on that motion.

After carefully considering the matter, the Court finds that Plaintiff has not established the requirement for the issuance of an Order to Show Cause under Fed. R. Civ. P. 65(b)(1)(B), and Local Rules 7.1(f) and (e). Moreover, Plaintiff has not sufficiently established either (1) a likelihood of irreparable harm or (2) sufficiently serious questions going to the merits and a balance of hardships tipping decidedly in its favor, if a Temporary Restraining Order is not issued between the date of this Text Order and the date of a hearing on its motion for a Preliminary Injunction.

However, based on the evidence adduced thus far, the Court finds it appropriate to issue an expedited briefing schedule on Plaintiff's motion for a Preliminary Injunction. Defendants' papers in response to Plaintiff's motion are due by **8:00 a.m. on Wednesday, October 10, 2012**. No reply to Defendants' response shall be permitted. The parties' witness lists and exhibit lists (for the hearing on Plaintiff's motion) are due by **3:00 p.m. on Wednesday, October 10, 2012**. A hearing on Plaintiff's motion shall occur at **9:30 a.m. on Thursday, October 11, 2012**, before the undersigned in Courtroom 4 of the Federal Building in Syracuse, New York.

The Court is cognizant of the fact that Plaintiff has adduced evidence that, inter alia, Defendants might, before the hearing, submit a bid in response to the anticipated request for proposal. The parties are advised that, should that occur, the Court would entertain an amendment to Plaintiff's motion enlarging the scope of the requested relief to include, inter alia, a mandatory injunction that requires Defendants to withdraw their bid.

ACCORDINGLY, it is

ORDERED that Plaintiff's motion for an Order to Show Cause and a Temporary Restraining Order (Dkt. No. 39) is **DENIED**; and it is further

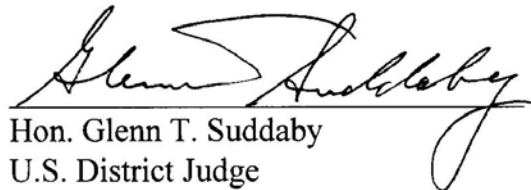
ORDERED that Defendants shall file with this Court, and serve on Plaintiff's counsel, their response to Plaintiff's motion for a Preliminary Injunction by **8:00 A.M. on WEDNESDAY, OCTOBER 10, 2012**; and it is further

ORDERED that no reply to Defendants' response shall be permitted; and it is further

ORDERED that the parties' witness lists and exhibit lists (for the hearing on Plaintiff's motion) are due by **3:00 P.M. on WEDNESDAY, OCTOBER 10, 2012**; and it is further

ORDERED that the hearing on Plaintiff's motion shall occur at **9:30 A.M. on THURSDAY, OCTOBER 11, 2012**, before the undersigned in Courtroom 4 of the Federal Building in Syracuse, New York.

Dated: October 5, 2012
Syracuse, New York


Hon. Glenn T. Suddaby
U.S. District Judge